

AN ACT

RELATING TO TAXATION; EXTENDING THE RENEWABLE ENERGY PRODUCTION
TAX CREDIT TO INCLUDE BIOMASS AS A QUALIFIED ENERGY RESOURCE;
CHANGING ELIGIBILITY REQUIREMENTS FOR CERTIFICATION.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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Section 1. Section 7-2A-19 NMSA 1978 (being Laws 2002, Chapter 59,
Section 1) is amended to read:

"7-2A-19. RENEWABLE ENERGY PRODUCTION TAX CREDIT--LIMITATIONS--
DEFINITIONS--CLAIMING THE CREDIT.--

A. A taxpayer that owns a qualified energy generator certified by the
energy, minerals and natural resources department is eligible for a tax credit in an
amount equal to one cent (\$.01) per kilowatt-hour for the first four hundred thousand
megawatt-hours of electricity produced by the qualified energy generator using a
qualified energy resource in the taxable year. A taxpayer shall be eligible for the tax
credit for ten consecutive years, beginning on the date the qualified energy generator
begins producing electricity. The tax credit provided in this section may be referred to
as the "renewable energy production tax credit".

B. As used in this section:

(1) "biomass" means agricultural or animal waste; thinnings
from trees less than fifteen inches in diameter, slash and brush; lumbermill or sawmill
residues; and salt cedar and other phreatophytes removed from watersheds or river
basins;

(2) "qualified energy generator" means a facility with at least

ten megawatts generating capacity located in New Mexico that produces electricity
using a qualified energy resource and that sells that electricity to an unrelated person;
and

(3) "qualified energy resource" means a resource that
generates electrical energy by means of a fluidized bed technology or similar low-
emissions technology or a zero-emissions generation technology that has substantial
long-term production potential and that uses only the following energy sources:

- (a) solar light;
- (b) solar heat;
- (c) wind; or
- (d) biomass.

C. A taxpayer may request certification of eligibility for the renewable
energy production tax credit from the energy, minerals and natural resources
department, which shall determine if the applicant is a qualified energy generator;
provided that the department may certify the eligibility of an energy generator only if
the total amount of electricity that may be produced annually by all qualified energy
generators that are certified will not exceed two million megawatt-hours. Applications
shall be considered in the order received. The energy, minerals and natural resources
department may estimate the annual power-generating potential of a generating facility
for the purposes of this section. The energy, minerals and natural resources
department shall issue a certificate to the applicant stating whether the applicant is an
eligible qualified energy generator and the estimated annual production potential of
the generating facility, which shall be the limit of that facility's energy production eligible
for the tax credit for the taxable year. The energy, minerals and natural resources

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department may issue rules governing the procedure for administering the provisions
of this subsection.

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D. To claim a renewable energy production tax credit, a taxpayer that
has been certified as eligible pursuant to Subsection C of this section shall submit to
the taxation and revenue department the certificate issued by the energy, minerals and
natural resources department, documentation of the amount of electricity produced by
the taxpayer's facility in the taxable year and any other information the taxation and
revenue department may require to determine the amount of the tax credit due the
taxpayer.

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E. Once a taxpayer has been granted a renewable energy production
tax credit for a given facility, that taxpayer shall be allowed to retain its original date of
application for tax credits for that facility until either the facility goes out of production
for more than six consecutive months in a year or until the facility's ten-year eligibility
has expired.

F. The renewable energy production tax credit may be deducted from
the taxpayer's New Mexico corporate income tax liability for the taxable year. If the
amount of the tax credit claimed exceeds the taxpayer's corporate income tax liability,
the excess may be carried forward for up to five consecutive taxable years."

HB 146